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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,945

03/22/2004

Kyle G. Brown

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1046

51016

7590

07/23/2008

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EXAMINER

WILLIAMS, CLAYTON R

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

07/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/805,945	Applicant(s) BROWN ET AL.	
	Examiner Clayton R. Williams	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. By amendment filed 7 April 2008, claim 17 is pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For Claim 17, neither the claim language on its face nor the application specification, sufficiently defines "an arbitrary selection" process.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liskov et al., US 2005/0076104 (hereinafter Liskov), in view of Official Notice.

For claim 17, Liskov discloses an enhanced publish/subscribe messaging system servicing method (Abstract) comprising:

a plurality of subscribers using a subscription program to subscribe to a subscription related to a topic ([0055], lines 1-7, path manager process 121 of content provider computer system, i.e. an origin or publishing server, supplied with channel definition, list of subscribers, comprising plurality of lower-tier content engines 354 that are to receive published content);

a publication program publishing a message related to the topic ([0040], lines 1-5, disclosure of content provider computing system delivering messages to root server content engines 354);

a message delivery program sending a copy of the message to the subscription ([0056], lines 1-3, disclosure of path manager process determining a root content engine 360 among content engines 354 for dissemination of published message);

a subscription dispatcher program making a selection of only one of the plurality of subscribers to receive the copy of the message ([0056], lines 8-14, disclosure that path manager process selects a content engine 354 within each top level of the distribution hierarchy for the distribution of messages);

wherein the message delivery program delivers the copy of the message to said one of the plurality of subscribers and not to any other subscriber of the plurality of subscribers ([0056], lines 8-14);

wherein said selection of only one of the plurality of subscribers is an arbitrary selection ([0056], lines 8-14, disclosure that path manager process applies automated routines for the selection of root content engine); and

Liskov fails to explicitly disclose:

wherein the subscription dispatcher program is separate from the message delivery program and is invoked by the message delivery program (Note: Liskov does suggest apportioning process 121 into separate modules, as evidenced by modules 122-124 of Fig. 1).

However, Examiner takes Official Notice that embodying the logic of the claimed subscription dispatcher program and message deliver program into separate programs would have been obvious to one of ordinary skill at the time of the claimed invention.

Liskov teaches a path manager process which selects a content engine among a plurality of content engines to serve as a root sever for further distribution of the messages to other subscribing clients. Among other motives, embodying the logic of the path management process into separate programs would allow for the division of responsibility for selecting a subscriber among many to serve as a distribution point to other subscribers to multiple server entities.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clayton R. Williams whose telephone number is 571-270-3801. The examiner can normally be reached on M-F (8 a.m. - 5 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jul. 18, 2008
CRW

Clayton R. Williams
Patent Examiner
Art Unit 2157

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/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157